

REQUEST FOR EXTENSION OF TIME

It is respectfully requested that the period for reply to the March 12, 2003 Office Action be extended by one month, i.e., up to and including May 12, 2003. Submitted herewith is a check for \$110.00 in payment of the fee thereof. The Commissioner is hereby authorized to charge any additionally required fee for the extension, or any other fee occasioned by this paper, or credit any overpayment in such fees, to Deposit Account No. 50-0320.

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REMARKS

Reconsideration and withdrawal of the requirement for restriction are respectfully requested in view of the remarks herewith.

The March 12, 2003 Office Action required an election under 35 USC § 121 from:

Group I Claims 20-34, 51, and 52, which are drawn to a system and a method employing a loading arm, transfer arm, pipette tip with filter barrier, classified in class 73, subclass 863.82;

Group II Claims 35-40 and 53, which are drawn to a device including a hollow chamber, hollow piercing tip, filter barrier engaged to inner walls of the hollow chamber, side vent, and deflector plate, classified in class 73, subclass 863.85; and

Group III Claims 41-49 and 54, which are drawn to a device including a hollow chamber, filter barrier engaged to inner walls of the hollow chamber, and hollow piercing tip with end blocking excess sample from entering into a side vent, classified in class 73, subclass 863.85.

In response to the Restriction Requirement, Applicants provisionally elect Group II, claims 35-40 and 53. It is Applicants' understanding that claims 1-19, 50, and 55 will also be examined (see Office Action, at 2).

This election is made with traverse and without prejudice to Applicants' right to file divisional applications directed to the non-elected subject matter. It is respectfully requested that the restriction requirement be favorably reconsidered and withdrawn.

Applicants respectfully urge that the Restriction Requirement does not establish that searching all the inventions would constitute an undue burden to the Patent Office. Moreover, Applicants urge that the Restriction Requirement is contrary to public policy. Accordingly, Applicants submit that the Restriction Requirement is improper and should be withdrawn or at least modified.

The MPEP lists two criteria for a proper restriction requirement. First, the invention must be independent or distinct. MPEP § 803. Second, searching the additional invention must constitute an undue burden on the examiner if restriction is not required. *Id.* The MPEP directs the examiner to search and examine an entire application "[i]f the search and examination of an entire application can be made without serious burden, ... even though it includes claims to distinct or independent inventions." *Id.*

Applicants urge that the Restriction Requirement does not meet the second of these criteria as the searches for Groups I, II, and III overlap. For example, the claims of Groups I, II, and III share the same class, and the claims of Groups II and III share the same subclass. Further, claims 1-19, 50, and 55 were considered by the examiner as linking the claims of Groups II and III, evidence that the claims of at least Groups II and III should be examined together in this application. The Restriction Requirement, it is respectfully submitted, should be at least modified to combine the claims of Groups II and III for prosecution on the merits in one application.

The present claims, thus, represent a web of knowledge and continuity of effort that merits examination in a single application. Therefore, reconsideration and modification of the Restriction Requirement are warranted.

Further, it is respectfully urged that restricting the claims in the manner suggested in the Restriction Requirement constitutes an undue burden to Applicants as well as to the public. The cost of prosecuting and maintaining so many patents is unreasonable in view of the fact that the

three Groups are so closely related. Further, the public is inconvenienced because they will not know whether or not Applicants will file divisional applications to the remaining subject matter. Accordingly, the public will not know if they can practice the remaining invention without infringing future patent applications.

Accordingly, in view of the foregoing, reconsideration and withdrawal of the restriction requirement are requested, and an early action on the merits is earnestly solicited.

Respectfully submitted,

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